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REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner rejects claims 1-7 and 11-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,059,719 to Yamamoto et al., (hereinafter “Yamamoto”). Additionally, the Examiner rejects claim 1 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,805,791 to Seuberth et al., (hereinafter “Seuberth”). Furthermore, the Examiner rejects claims 1-18 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2001/0053909 to Nakada et al., (hereinafter “Nakada”).

In response, Applicants respectfully traverse the Examiner’s rejections under 35 U.S.C. § 102(b) for at least the reasons set forth below. However, independent claim 2 has been amended to clarify its distinguishing features. Furthermore, with regard to the rejections of claim 1, the same has been canceled, thereby rendering the rejections thereof moot.

With regard to the amendment to claim 2, the same has been amended to clarify that the diathermic snare includes a distal-end bent portion which is provided at the distal end of the loop section included in the snare wire connected to the distal end of the operation wire, and is bent in a direction that intersects a plane formed by the loop section. Amended claim 2 further recites that the distal-end bent portion conforms to a corner of a bent portion of the engagement projection, and extends along an inner circumferential wall of the distal end of the cap section, when the loop section expands along the inner circumference of the projection.

By virtue of the above feature, the present invention can obtain advantages as disclosed in the specification, page 20, line 13 to page 21, line 4. Specifically, the diathermic

snare with the recited configuration makes it possible to "prevent the loop section from bumping against the projection in an inappropriate state. Consequently, a looping operation of looping the loop section 5 around the cap section 11 can be performed easily and reliably."

Thus, the diathermic snare with the recited configuration overcomes the problems of the prior art, including those cited by the Examiner. In the diathermic snares of the prior art, the snare loop is formed asymmetrically. When an operator uses the snare in combination with an endoscope for procedures, such as endoscopic demucosation, he or she has to be experienced in fitting the snare loop around a flange-shaped projection of an almost cylindrical hood (hereinafter referred to as a looping operation). This looping operation is not easy to perform.

Furthermore, in the diathermic snares of the prior art, the snare loop has a projection at the distal end. In the loop operation, the projection of the snare loop bumps against the inner wall of the hood. Thus, the snare loop is not properly fitted around the flange-shaped projection.

Yamamoto discloses a loop section connected to the distal end of an operation wire. However, Yamamoto does not disclose or suggest a structural element corresponding to a "distal-end bent portion bent in a direction that intersects a plane formed by the loop section" as recited in claim 2.

Furthermore, referring to Figure 7 of Yamamoto, a cylindrical cap section is provided at the distal end of an inserting section of an endoscope, and a flange-shaped projection portion which is bent inwards is provided at the distal end of the cap section. The entire loop section at the distal end of the operation wire is brought into contact with a corner of an inner circumferential surface of the flange-shaped projection portion, and is engaged

with the corner of the inner circumferential surface thereof. In this structure, an operation in which the loop section of the snare is positioned with respect to the projection portion of the hood (hereinafter referred to as looping operation) requires a great deal of skill. Thus, the looping operation cannot be easily achieved.

Seuberth is cited against claim 1 of the present application, which as discussed above, has been canceled. However, it should be noted that Seuberth discloses a wire loop 5 which is attached to the distal end of a loop slider 4, but does not disclose a "distal-end bent portion bent in a direction that intersects a plane formed by the loop section" as recited in claim 2.

Nakada discloses a snare wire that expands to loop. However, Nakada does not disclose or suggest that the distal end of such a loop section has a specific shape. Accordingly, Nakada does not disclose or suggest a member corresponding to a "distal-end bent portion bent in a direction that intersects a plane formed by the loop section" as recited in claim 2.

Independent claims 13 and 16 recite similar features that are nor disclosed or suggested in the prior art references of record cited by the Examiner.

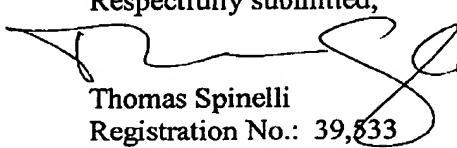
With regard to the rejections of claims 1-18 under 35 U.S.C. § 102(b), a medical instrument system, a method of assembling a medical instrument system and a diathermic snare having the features discussed above and as recited in independent claims 2, 13 and 16, respectively, is nowhere disclosed in either Yamamoto, Seuberth or Nakada. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

independent claims 2, 13 and 16 are not anticipated by either Yamamoto, Seuberth or Nakada. Accordingly, independent claims 2, 13 and 16 patentably distinguish over each of Yamamoto, Seuberth and Nakada and are allowable. Claims 3-12, 14, 15, 17, and 18 being dependent upon claims 1, 13 and 16, are thus at least allowable therewith.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:cm